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Before the Federal Communications Commission Washington, D.C. 20554

JUL 1 2 1994

In the Matter of:)		FEDERAL COMMUNICATIONS COMMISSION OFFICE OF SECRETARY		
Further Forbearance From Title II Regulation of Certain Types of Commercial Mobile Radio Service Providers)))	GN	Docket	No.	94-33

REPLY COMMENTS OF IN-FLIGHT PHONE CORPORATION

With the filing of initial comments in this proceeding, a record now exists in three separate pending proceedings which requires an exemption for air-ground licensees from TOCSIA. In the present proceeding, 13 commenters have described in detail why costs of complying with TOCSIA outweigh benefits. 1/ By contrast, only two -- AT&T and NYNEX -- have asserted that benefits outweigh costs, but neither of them provided any facts to support this conclusion. 2/ Similarly, GTE has asked the Commission in GN Dkt. No. 93-252 to exempt air-ground licensees from the regulatory requirements of TOCSIA, and not a single commenter opposed this request. 3/ Likewise, In-Flight and GTE have asked the Commission

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See Alltel Mobile Commun. at 3; Bell Atlantic at 2; BellSouth at 2; CTIA at 7; Dial Page at 8; GTE at 6-8; In-Flight at 3-8; McCaw at 1; NEXTEL at 16; OneComm at 10 n.18; Southern Company at 6; Southwestern Bell Mobile Systems at 10; and NABER at 9. Some of these parties also asked the FCC to exempt other commercial mobile service licensees from TOCSIA in addition to air-ground licensees.

See AT&T at 4; NYNEX at 5-6.

GTE requested this action in its petition for reconsideration of the agency's Second Report and Order in that docket. 9 FCC Rcd. 1411 (1994). In its Second Report and Order, the FCC had declined to exempt air-ground licensees from TOCSIA based on the agency's conclusion that "[n]o commenter . . . [had] demonstrated how . . . [doing so] would be consistent with the

in MSD-92-14 to hold that TOCSIA is inapplicable to air-ground licensees, and no commenter disputed the arguments that support this conclusion.4/

To summarize: the record in this proceeding -- as well as in Dkt. No. 93-252 and in MSD-92-14 -- plainly require a ruling by the Commission exempting air-ground licensees from the obligation to comply with TOCSIA.

Respectfully submitted,

IN-FLIGHT PHONE CORP.

By

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July 12, 1994

 $[\]frac{3}{2}$ (...continued) public interest." Id., 9 FCC Rcd. at 1490. In its petition for reconsideration, GTE explained in detail why granting the exemption is consistent with the public interest. "Pet. for Recon. or Clarif." at 2-6 (GN Dkt. No. 93-232, May 19, 1994). Not a single party responding to GTE's request opposed this exemption or disputed any of the facts upon which the request was based.

In-Flight and GTE made this request in a petition for reconsideration of a Common Carrier Bureau order holding that TOCSIA is applicable to air-ground licensees. See Declar. Ruling in File No. MSD-92-14 (DA No. 93-1022, Aug. 27, 1993).

CERTIFICATE OF SERVICE

I certify that a copy of the attached "REPLY COMMENTS OF IN-FLIGHT PHONE CORPORATION" was mailed on July 12, 1994, by first class mail to the following:

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